

AO 241 (Rev. 5/85)

PETITION UNDER 28 USC § 2254 FOR WRIT OF
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

United States District Court		District <u>Massachusetts</u>
Name <u>Kenyatti Jordan</u>	Prisoner No.	Case No.
Place of Confinement <u>Rhode Island State prison, Cranston, Rhode Island</u> <u>(Massachusetts prisoner housed out of state)</u>		
Name of Petitioner (include name under which convicted) <u>KENYATTI JORDAN</u>		Name of Respondent (authorized person having custody of petitioner) <u>THOMAS REILLY</u>
The Attorney General of the State of: <u>Massachusetts</u>		04-10925 NG

PETITION

- Name and location of court which entered the judgment of conviction under attack Suffolk Superior Court, 90 Devonshire St. Boston, MA 02109
- Date of judgment of conviction February 8, 1999
- Length of sentence life and 4-5 concurrent
- Nature of offense involved (all counts) first degree murder; unlawful possession of a firearm
- What was your plea? (Check one)
 - (a) Not guilty ☒
 - (b) Guilty ☐
 - (c) Nolo contendere ☐
 If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:

- If you pleaded not guilty, what kind of trial did you have? (Check one)
 - (a) Jury ☒
 - (b) Judge only ☐
- Did you testify at the trial?
Yes ☒ No ☐
- Did you appeal from the judgment of conviction?
Yes ☒ No ☐

AO 241 (Rev. 5/85)

9. If you did appeal, answer the following:

- (a) Name of court Supreme Judicial Court of Massachusetts
- (b) Result judgments affirmed
- (c) Date of result and citation, if known March 26, 2003 ; 439 Mass 47 (2003)
- (d) Grounds raised (1) statements obtained in violation of due process; (2) jury charge on voluntariness; (3) restriction of cross-examination in violation of due process; (4) disallowance of peremptory challenges in violation of due process.
- (e) If you sought further review of the decision on appeal by a higher state court, please answer the following:

- (1) Name of court N/A
- (2) Result _____
- (3) Date of result and citation, if known _____
- (4) Grounds raised _____

(f) If you filed a petition for certiorari in the United States Supreme Court, please answer the following with respect to each direct appeal:

- (1) Name of court N/A
- (2) Result _____
- (3) Date of result and citation, if known _____
- (4) Grounds raised _____

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal?

Yes ☐ No ☒

11. If your answer to 10 was "yes," give the following information:

- (a) (1) Name of court N/A
- (2) Nature of proceeding _____
- (3) Grounds raised _____

AO 241 (Rev. 5/85)

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☐(5) Result

(6) Date of result

(b) As to any second petition, application or motion give the same information:

(1) Name of court

(2) Nature of proceeding

(3) Grounds raised

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☐(5) Result

(6) Date of result

(c) Did you appeal to the highest state court having jurisdiction the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes ☐ No ☐(2) Second petition, etc. Yes ☐ No ☐(d) If you did *not* appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

12. State *concisely* every ground on which you claim that you are being held unlawfully. Summarize *briefly* the *facts* supporting each ground. If necessary, you may attach pages stating additional grounds and *facts* supporting same.

CAUTION: In order to proceed in the federal court, you must ordinarily first exhaust your available state court remedies as to each ground on which you request action by the federal court. If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

AO 241 (Rev. 5/85)

For your information, the following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed if you have exhausted your state court remedies with respect to them. However, *you should raise in this petition all available grounds* (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The petition will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one: Conviction obtained by use statements that were immunized and involuntary.

Supporting FACTS (state *briefly* without citing cases or law) The petitioner was given federal proffer immunity and was told that anything he said could not be used directly against him both by the AVSA and a federal agent.

B. Ground two: Conviction obtained by unfairly restricting the petitioner's right of cross-examination and to present a defense.

Supporting FACTS (state *briefly* without citing cases or law): The petitioner sought to prove through cross-examination and by a defense witness that the Boston police interviewed the petitioner with an improper motive. The trial court did not allow this evidence.

AO 241 (Rev. 5/85)

C. Ground three: _____

Supporting FACTS (state *briefly* without citing cases or law): _____

D. Ground four _____

Supporting FACTS (state *briefly* without citing cases or law): _____

13. If any of the grounds listed in 12A, B, C, and D were not previously presented in any other court, state or federal, state *briefly* what grounds were not so presented, and give your reasons for not presenting them: _____

N/A

14. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack?
Yes ☐ No ☒

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing _____

(b) At arraignment and plea _____

AO 241 (Rev. 5/85)

(c) At trial Phillip Tracy, Dimento + Sullivan, 7 Faneuil Marketplace
Boston, MA 02109

(d) At sentencing " "

(e) On appeal Robert Sheketoff, One McKinley Square, Boston,
MA 02109

(f) In any post-conviction proceeding _____

(g) On appeal from any adverse ruling in a post-conviction proceeding _____

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time?

Yes ☒ No ☐

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☐ No ☒

(a) If so, give name and location of court which imposed sentence to be served in the future: _____

(b) Give date and length of the above sentence: _____

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes ☐ No ☐

Wherefore, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.

Robert Sheketoff

Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

4-29-04
 (date)

Joseph J. Jordan

Signature of Petitioner